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ABSTRACT

The interviewing of the child victim of sexual exploitation is one of the first and most important steps in solving and prosecuting a case of child exploitation and is the topic of this document. The first chapter discusses the interviewer's role, focusing on improving communication, dealing with emotion, the interviewer's response, male or female investigator, and team interviewing. The developmental stage of the child, dynamics of sexual exploitation, and juveniles as witnesses are discussed in the second chapter. Preparation for the interview is discussed in the third chapter, discussing the child's family, the medical examination, others present during the interview, decision to record, and selecting the interview site. The interview itself is the topic of the fourth chapter which discusses beginning the interview, use of anatomically correct dolls, questioning the child victim, and closing the interview. Essays on special considerations in investigating ritualistic child sexual abuse and in obtaining and using expertise search warrants in cases of preferential child molesters are provided. A bibliography is included. The appendix includes charts categorizing the sexual victimization of children and situational and preferential child molesters, as well as a model of the cycle of violence. A model proviso is included. (ABL)

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NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN™

Interviewing Child Victims of Sexual Exploitation

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Interviewing Child Victims of Sexual Exploitation

February 1987

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Foreword

Child sexual exploitation has emerged in only ten years from obscurity to become a crime of major proportions. What is even more remarkable than our recent "discovery" of child sexual abuse is the fact that it has remained hidden so long. And, the saddest part of all is that society is almost bound to hide it away again.

We are now at a crucial point in history when we can choose to recognize child victimization and to control offenders, or we can choose denial and disbelief. The first choice offers hope for millions of children and the promise of an adult society significantly unburdened from senseless mayhem, victimization of the helpless, and nagging emotional pain. The second course buys time to incubate another generation of silent, smoldering rage. The solution to the problem depends on the quality of present-day investigations, especially in the initial interviews with children.

Each time in history when the silent menace of child sexual abuse has been exposed, it has been put away again. Experts emerge to blame children for seeking attention and to condemn child advocates for fomenting hysteria. An historic trend is already repeating itself: The explosion of discovery and expansion of belief that began in 1978 has strained the limits of believability. People who could believe that a little girl might try to protect an incestuous father now refuse to accept that groups of children can conceal their exploitation by out-of-home predators. It is as difficult to imagine that good, caring parents would not know the truth as it is to accept that trusted, "normal" citizens could carry out mass exploitation of children without leaving a clue. What actually happens to children is irrelevant if it goes beyond what the citizenry define as reasonable. Whatever we are not yet ready to believe we condemn as incredible, unreasonable, outrageous.

In this latest cycle of discovery the inevitable counterattack has emerged in fewer than ten years. As the massive, seemingly incredible cases are tested in the courts and covered by the media, the earlier enthusiasm for exposure and endorsement has turned to saturation and resentment. Now the watchwords have changed. Witch hunt. Hysteria. Overzealous prosecution. Brainwashed children. Misguided therapists. Inept investigators. Leading questions. Cross-germination. Contaminated witnesses. Rather than confront large numbers of trusted suspects, we challenge the methods and the motives of those few who voice suspicion.

Since any adult with reasonable doubt can accuse any number of children with unreasonable allegations, the quality of the investigation and the credibility of the investigator establish not only the foundation but also the vital framework of every case—defining its outcome in the eyes of the court, the public media, and the public itself. There must be no room for the "fish that got away." Allegations of pornography are a liability without pictures in hand. Claims of multiple victimization are an embarrassment if any

of the alleged victims balk at disclosure. The most convincing interview with a child will be thrown out if the parents cannot tolerate the discoveries or, just the opposite, if outraged parents insist on prosecuting the most outrageous allegations. Too much detail on the record is just as impeachable as too little. Whenever the arguments turn ugly—as they usually will—the investigators will be blamed for ruining the case. Anyone who gets into this kind of work had better do it right.

Nowhere in law-enforcement and at no time in human history have the challenges been so formidable, the odds more unbalanced, or the stakes so high. Skill, savvy, guts, judgment, diplomacy, adaptability, tolerance, teamwork, and patience are what this vital game is about. Winning the game—for the sake of law-enforcement, the children, the families, and for all of society—is what this book is about.

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Introduction

Interviewing the child victim is one of the first and most important steps in solving and prosecuting a case of child exploitation. Careful handling of the interview is crucial to the proper resolution of the case; keep in mind that the interviewer's conduct as well as the child's statements are subject to legal scrutiny. Unlike many cases involving adults, the goal of interviewing the child victim is not solely to gather information and evidence. Rather, the interview involves a complex interplay of questioning, counseling, and comforting a confused and traumatized person whose level of communication and perception are years behind our own.

Interviewing the Child Victim of Sexual Exploitation

The word *interview* is an old and familiar term for both police officers and social workers. A social worker considers the interview a means of determining a client's need for social services delivery, whereas the police officer views the interview as a necessary step in preparing a case for prosecution. All too often both social workers and police officers consider the interview merely a process of questioning. The interview is much more than that, however—especially when dealing with a child victim of sexual exploitation.

The interview is extremely important to case development. In a case involving an exploited child, very often there will be no physical evidence and most likely no witnesses to the incident. The interview, then, is of maximum importance to the officer because most of the information that exists or will become available will be obtained through the interview.

This same interview, so necessary to case development, is vitally important to the well-being of the child being interviewed. For many child victims of exploitation, the interview may be the first and, unfortunately, the last time that someone will have the opportunity to help the child successfully integrate the victimization. The dual purpose of the interview with a child victim of exploitation must be clearly understood. Accepting this dual purpose is fundamental to the approach presented throughout the remainder of this handbook.

Because of the importance of the interview, it is essential that the investigator be knowledgeable about what determines the child's ability to make a statement about the exploitation and what affects the child's willingness to participate in the investigation. Young children are often shy, embarrassed, and unfamiliar with sexual terminology. Older children tend to have a fear of authority figures, a sense of guilt about their own victimization, and a different mental picture of the situation than the interviewer. They may also lack the proper terminology to discuss the incident. Furthermore, many children feel a genuine attachment to the offender.

Interviewing can be learned and interviewing skills developed. What follows,

however, is not a "cookbook" of interviewing. No one method of interviewing applies to every situation or individual. Effective interviewing can be achieved by considering these steps:

1. Understand why specific techniques are used.
2. Create an environment comfortable for both interviewer and child victim.
3. Integrate informational objectives with legal requirements for use in court.
4. Acknowledge the needs of the child victim.
5. Continually evaluate yourself and your practices.

General preparation for the interview consists of the continual process of developing communication skills, analyzing information, evaluating impressions, understanding feelings, and becoming more knowledgeable about child sexual exploitation. Specific preparation refers to those activities required just prior to the immediate interview, such as assessing the verbal ability of the child, determining the case history, deciding who will be present, and choosing the site of the interview. Following the preparatory stages comes the actual interview, which consists of beginning the process, obtaining appropriate information, clarifying the information, and closing. Finally, the information obtained must be assessed for credibility and the child victim given final reassurance and support.

Experienced investigators will realize that not much can be done to improve the time-honored investigative questions *who*, *what*, *when*, *where*, *how*, and *why*. The interviewer must relate the technique of asking such questions to the dynamics of child sexual exploitation, however. The purpose of this handbook is to help investigators transfer the skills they possess to assist the child victim of sexual assault. It is not an attempt to turn police investigators into social workers or therapists, or vice versa.

For proper case handling and resolution, a prime consideration for the interviewing investigator should be the welfare of the child. This handbook emphasizes concern for the immediate and future well-being of the child victim. The focus is on obtaining and maintaining a supportive relationship with the child. To accomplish this, the emotional and physical needs of the child must be addressed as they arise. Police investigators may need to reconcile this emphasis with a prosecution-oriented approach to interviewing. Furthermore, it is the investigator's responsibility to validate the child's statement.

Note: This handbook is targeted toward interviewing the school-age victim of sexual exploitation. For the purposes of this text, *sexual exploitation* is used to mean the sexual misuse of a child for profit or personal advantage—that is, producing pornographic material for barter or as a tool of future seduction, occurring in pornography, prostitution, and child sex rings. The distinguishing characteristic of child pornography, as generally understood, is that actual children are photographed while engaged in some form of sexual activity, either with adults or with other children. Child pornography is pictorial *evidence* of child sexual abuse. (*See also* Appendix 1, page 41.)

1. The Interviewer's Role

The proper management of an interview calls for investigators to assess the situation, formulate a plan of action, enlist the cooperation of the child, provide emotional support, and address the child's physical trauma.

The ability to communicate well is an essential element of interviewing. Very basic elements of the communication process are included here to aid in later understanding of techniques discussed. One communication model suggests three essential elements: sender, message, and receiver. The sender transmits a specific message through verbal and nonverbal, or behavioral, cuing. The process is effective if the message is received and comprehended as intended. It may sound simple, but in everyday situations with people, we know that communications can get scrambled.

Improving Communication

The Interviewer's Goals Following are some of the major goals that a good interviewer should focus on:

1. Each person in the interview may have different expectations of the interview. The interviewer should talk to the child about what to expect and how the interview will help.
2. Each party must feel a part of the interview. The interviewer should take care that the child does not feel isolated or misunderstood.
3. Overbearing display of authority is alienating. The interviewer, however, should set up a firm interviewing structure to help the child reestablish control and a feeling of security.
4. It is essential for the interviewer to exhibit concern and gain the child's trust before asking him or her to reveal confidences. Do not, however, exhibit so much concern that you encourage the child to embellish his or her answers in order to obtain positive reinforcement from the interviewer.
5. The interviewer should be aware of the depth, intensity, and nature of his or her feelings in order to understand the child's own. Moreover, the burden of controlling overwhelming emotions is on the interviewer.
6. The interviewer should make sure that the child is physically comfortable with the site and surroundings of the interview.
7. The interviewer should make sure that the child understands exactly what is said.
8. The interviewer should devote full attention to the child, allowing no intrusions.
9. Do not schedule the interview during the child's naptime, mealtimes, or the difficult hours from 5:00 to 7:00 p.m.

Showing Interest Another important part of communication is, simply, to show interest. This is accomplished as much by nonverbal behavior as by dialogue. The use of "body language" and behavioral cuing can aid the interviewer in keeping the child in a responsive mood. Key expressions are attentiveness, agree-

ment, and dismissal. Attentiveness can be demonstrated by keeping a good posture. Do not get too close to the child, but lean forward as if "hanging on to every word." Face the child. Maintain pleasant eye contact without staring. Agreement is shown through nodding, smiling, and affirmative exclamations. A show of dismissal, which indicates lack of interest, should be used with extreme caution, but it can be effective in redirecting the interview back toward the original subject. Dismissal is indicated by such actions as leaning back in the chair, dropping the eyes, shuffling papers, and so on.

Interest is also communicated by giving the child a chance to complete what is said. One of the most common errors of interviewing is that the interviewer tries to talk too much. In certain instances, the interviewer should refrain from revealing too much information. And, in some cases, silence is an appropriate way of soliciting a more thorough response.

Likewise, the interviewer should observe the victim's nonverbal behavior. Silence on the part of the child may indicate that he or she is embarrassed or did not understand the question. High mobility could indicate anxiety or exhaustion. Watch for discomfort and deal with it as it arises. Do not try to deflect emotion—handle it.

Dealing with Emotion

The interview with a child victim of sexual exploitation is likely to be laden with emotion. The well-being of the child and proper case preparation require that this emotion be acknowledged and handled. Unaddressed emotional issues can block the collection of information critical to case planning, child protection, and successful prosecution.

There is a direct link between a child's feelings and behavior, including the discussion of the victimization. In order to make the child feel as comfortable as possible about the interview, the investigator should demonstrate a complete acceptance of the child's feelings. Steady denial of feelings can further aggravate an already difficult situation. Even bad feelings are valid and must be accepted as genuine. Responses such as "There's no reason to be upset" serve no purpose, and they send a message to the children that their feelings are not to be trusted. Recent studies in the trauma of rape victims indicate that if strong emotions are accepted, the victim's sense of control is restored.

The last thing the child wants is the investigator's philosophizing or pity. Pity further devastates, rapid-fire questions raise defenses, change of subject implies lack of concern, and most frustrating is to hear "There's no reason to feel that way." What does help is for the investigator to demonstrate real attention, acknowledge the pain and confusion, and provide the opportunity for the child to talk through the emotion.

What the child really wants is to be understood and believed. This can be accomplished by confirming the child's emotions: "I understand you are really upset" or "I hear you saying how embarrassed (hurt, upset) you are." Responding in such a manner lets the child know that you are listening yet, at the same time, because your response is indefinite, it allows the child either to agree with your statement or to correct it. This kind of reply is not perceived as an order or as a firm, definite statement of fact, and it will encourage the child to further dialogue. An additional value of this kind of response is that it avoids prompting the child or encouraging embellishment of the story. This technique of responding is called reflective listening.

Reflective Listening *Reflective listening* is a method of response that consists of taking what is said, capturing the emotional intent of the words, and reemphasizing and restating the emotion. Its purpose is to show attentiveness and sympathy and to respond without making a judgment. For example, if a child says, "I just don't know what to do," the investigator may reply, "This must seem like a very confusing situation." This response restates, but does not judge, the child's feelings.

Reflective listening accomplishes two goals. First, the emotion has been focused, and the child has had an opportunity to clarify the emotion. Second, the investigator has communicated understanding. Reflective listening can be as simple as an "uh-huh," "yes," or an affirmative nod of the head.

Reflective listening is also useful for expanding a frame of reference, reducing confusion, clarifying emotions, developing feedback, and buying time for the interviewer when an extra second is needed to handle a shocking revelation or if the interviewer is at a loss for words and cannot pause tactfully.

The Interviewer's Response

Many competent investigators are very uncomfortable in dealing with victims of sexual assault, especially children. Each person, based on his or her experiences, has certain cultural attitudes. Personal prejudices are unfortunate realities of life. Myths about offenders and victims of child sexual exploitation abound. Furthermore, many investigators have developed certain expectations about the behavior of sexual assault victims. Such attitudes make it extremely difficult for some investigators to talk with child victims about sexual assault.

Being unaware of the depth of one's own emotions and the mechanisms that are employed to deal with them can immobilize an otherwise effective investigator. This is particularly unfortunate in the investigation of child sexual exploitation, in which the interaction between the child victim and the investigator is so important for the child's successful integration of the trauma as well as the development of the case for prosecution. Dealing with the emotions of the child victim can present a challenge to even the most seasoned investigator. One investigator described an interview to be "like visiting a funeral home—I just didn't know what to say."

Reactions to Avoid Following are certain reactions the interviewer may experience that can hinder the development of a healthy communication with the child victim of sexual exploitation:

- The investigator's frustration and resentment over his or her own helplessness and lack of control
- Overzealousness to get the job done (pressure to obtain information and return to service)
- Minimizing the seriousness of the situation (comparison of the case to others)
- Overreaction to victim's misdirected anger (Failure to understand the dynamics of sexual exploitation may cause the investigator to view the child's emotions as hostility rather than pain, loss of control, or fear.)
- Perceived lack of appreciation on the part of the victim for the investigator's efforts
- Any kind of prejudice—social, sexual, racial, etc. For instance, investigators may have trouble discussing homosexual issues or graphic sexual activity.
- Hardness, cynicism, or mistrust of those who do not conform to the "ideal victim" stereotype

- Display of "graveyard humor" (This may be healthy for the interviewer but will almost surely have a negative impact on the child.)
- Lack of sensitivity to the serious psychological and emotional trauma of the child as well as the dynamics of sexual exploitation
- Tendency to blame the child or to doubt the child's credibility
- Display of surprise, shock, horror, or anger (These reactions will be perceived by the child as signs of blame and disapproval, with the effect of suppressing further disclosures.)

These reactions are defense mechanisms on the part of the investigator encountering overwhelming emotions. It is necessary to deal with such reactions because of the barriers they create between the victim and the interviewer.

It must be acknowledged that not everyone can function well in the investigation of child sexual exploitation. Many people have deeply ingrained preconceptions regarding sexual issues, racial issues, and morality. Others just cannot comfortably relate to children. Some have experienced sexual abuse themselves and have not successfully integrated the experience. Some investigators may not be able to handle the tremendous amount of victim trauma associated with some of these investigations. Because of the importance of the interviewer's role, care must be taken to find someone who will be supportive and caring to the child as well as make a strong case for prosecution. Investigators and their supervisors should understand that the interviewer's reactions to child sexual abuse may significantly impede intervention efforts.

Male or Female Investigator?

Many investigative agencies have settled into a tradition of using female investigators for the investigation of sex offenses and juvenile matters. Regardless of the reasons for such practices, the sex of the investigator has little to do with establishing a relationship with the child victim. Female investigators should not be assigned to work child sexual investigation simply because they are female. What is important is that the investigator, male or female, have an understanding of the dynamics of sexual exploitation, skill in communicating with children, an awareness of personal values, a sensitivity to the feelings of others, a commitment to the child as a victim, and the desire to excel in investigation of child sexual abuse.

There may be times when the sex of the interviewer does impede investigator-victim relations. If this is the case, the issue should be addressed openly. If it cannot be overcome and the resources are available, obtain an investigator of the appropriate gender.

Team Interviewing

The team interview provides the means to elicit information needed by each participating agency in a manner that satisfies the specific purpose of each agency. Team interviewing can reduce the need for the child to repeat the account of the experience over and over again. If the luxury of working in teams is available, the investigator should make an attempt to learn a great deal about the partner—his or her concerns, mannerisms, strengths and weaknesses. This is especially true in the case of police/social worker teams, which often are composed of persons with very different work styles and objectives. *Note*: There are over 900 police/social worker teams in operation throughout the United States.

Working in the police/social worker team, the law-enforcement officer can

concentrate on an impartial and detached assessment of the case, while the social worker can focus on counsel and comfort of the child victim. Even though the social service professional may do the interviewing and provide the proper support systems for the child victims, care should be taken that the law-enforcement investigator *lead* the investigation throughout all stages.

The success of police/social worker teams depends on developing a framework of objectives for both parties prior to the interview. Set up a written protocol that details what information is required by each participant and whether there are any evidentiary restraints on obtaining the information. The entire process should focus on the best interests of the child victim. Take care that the interview process does not overwhelm the child.

2. The Child Victim of Sexual Exploitation

The stage of development that the child has reached at the time of the interview, as well as the particular stage of development at the time of the incident, has a great impact on how the child perceives the exploitation. The investigator should have knowledge of the development of the cognitive processes in children. Although it is true that no two children develop at the same rate and that two children of the same age may differ in physical, intellectual, and emotional maturity, a general knowledge of what children are like at given stages is helpful to the investigator in developing an interview strategy and evaluating the results of the interview.

Developmental Stage of the Child

A child's cognitive growth develops gradually from the pre-conceptual, intuitive thinking of the young child into a comprehension of abstract concepts. The concepts of time and space start as individualized notions and gradually mature into the adult concepts of chronological order and geographic location. Emotionally, the young child perceives himself as the "center of the universe." He or she depends on the family to meet all needs and freely concedes all authority to adults.

The child will often mirror the emotions of parents and close family members. As the child develops, this reliance is shifted to peer relationships, and the child develops emotional bonds outside the family. Behavior in the small child is often extroverted and impetuous, with little internal or external control. Emotion is expressed through behavior rather than language. When the child is stressed or highly anxious, he or she will be extremely mobile. As the child matures, internal control begins; furthermore, the child becomes more aware of external controls and begins to establish a sense of autonomy. (*See also* chart on page 9.)

Dynamics of Sexual Exploitation

Sexual exploitation does not always produce the same emotional reactions in each victim. The coping mechanisms that the child has acquired from other life experiences most likely will be the same ones employed in this crisis. The child may be panicky and uncontrolled, or just the opposite. The coping mechanisms of the child may be tears, trembling, tension, restlessness, depression, withdrawal, silence, nervous laughter, or a normal recital of the experience.

The investigator should recognize that anxiety has a disruptive effect on normal cognitive and intellectual functioning. When high anxiety is present, the investigator can expect the child to have difficulty in perceiving and remembering details and in recounting those details. This same phenomenon can offer an explanation for those situations in which

the victim's account of the incident may change as the victim becomes more capable of dealing with emotions and anxiety lessens. There is great value in addressing the child victim's emotions as they arise, for the child's sake as well as the successful resolution of the case.

The characteristics of the exploitation affect the child's perception of the abuse and, to a large degree, determine the child's response. The closeness of the child's relationship with the offender, the duration of the offense, the amount of secrecy surrounding the offense, how such secrecy was induced, the manner in which the child tried to tell about the incident, and the way the information was received are also factors that affect the child's response. Furthermore, the child may have ambivalent feelings toward or be dependent on the offender.

It is vitally important for those persons involved in the investigation of cases of exploited children to understand that a strong bond often develops between the child and the adult offender. The preferential child molester (pedophile) is very good at obtaining cooperation and gaining control of the child through well-planned seduction processes that employ adult authority, affection, attention, gifts, or threats—either articulated or implied. (*See also* Appendix 2, page 42.)

Quite often the child is fearful of the consequences of reporting the offense. He or she may feel that reporting the incident would disrupt the family structure, especially if the offender is a relative or friend of the family. Parents normally reject the suggestion that someone they trust has betrayed them. Their skepticism and shock convey a threat of disbelief, disapproval, mistrust, and withdrawal of affection. This is very frightening to the young child, who has so much reliance on the family. Often the child fears or has already encountered disbelief or blame for the act or the disruption of the family. Accordingly, denial is almost always the initial response.

Likewise, the investigator should be aware that, even after proper preparation, the child who makes a disclosure may be so anxious about the confession that he or she recants. It is important that the investigator encourage family and agency support for the child under stress.

Juveniles as Witnesses

Juveniles can be excellent witnesses. The interviewer of children, however, must scrupulously evaluate the information gathered and assess the credibility of the witness. As a general rule, juveniles are much more observant than adults. Usually, boys tend to be better observers of mechanical or physical things, such as cars, cycles, boats, and weapons. Girls, on the other hand, tend to be more often interested in people and their environment. Such categorizations have always been weak, though, and are changing more as societal roles are in flux.

A problem that may arise with juvenile witnesses is their lack of experience with concepts or reasoning, which may cause misinterpretation of an event. Also, children may be more easily pressured into embellishing a story in order to win the approval of the interviewer. You may want to explore the witness' resistance to suggestion.

It is of the utmost importance for investigators of child exploitation cases to realize that the young child's perception of the sexual event mirrors what he or she has been told by the adult offender. The misperceptions are supported by the environment of secrecy and isolation that ordinarily surrounds the event.

Photo Spreads In dealing with cases of sexual exploitation of children, the investigator is usually faced with multiple child victims and, many times, multiple adult

perpetrators. Often with young victims the investigator needs to be sure of the awareness, perception of detail, and judgment of the children as witnesses in identifying suspects. Care must be taken to avoid playing into the child's natural state of suggestibility in making statements or identifying suspects.

In using photo spreads, the investigator may find it useful to use a three-step methodology. First, show a spread including the child's mother or other family member (of the approximate age of the suspect), with the question "Do you see anyone in these pictures whom you know?" Such allows the child to pick out a known person. Second, show a spread that includes *no one* known by the child, with the same question, to determine if the child will use sound judgment in rejecting choices that are in fact unknown. Finally, show a spread in which the suspect is shown, with the same question. Such allows the child to identify the suspect in a scenario that has already built the child's credibility as a witness.

Developmental Stages of the Child

INTELLECTUAL	EMOTIONAL	SOCIAL
Birth–2 years		
Unable to form concepts Distinguishes "me" from "not me" Memory development Self-centered	Cries when wet, hungry, frustrated, or in pain Learning to trust others Most important person is mother or caretaker Poor defenses against anxiety: crying, biting, throwing objects, rocking, thumb sucking, security blanket	Primary source of socialization is family
2–4 years		
Development of language Imaginative behavior Learns through play Intellectual growth develops through gathering information from senses and the environment Magical thinking (believes if one wishes something, it will happen)	Learning independence Dressing, feeding, and washing self Needs structured situations Needs outside control and limitations but also some freedom to explore	Primary source of socialization is family and peers
4–7 years		
Fills gaps in knowledge through questioning and experimenting Ability to make judgments through primitive problem solving	Learning initiative Wants wishes met immediately	Primary source of socialization is family and peers
7–12 years		
Sees others' viewpoint Still concerned with the present, difficulty in projecting into future Operates on trial-and-error basis	Developing sense of independence Cooperates with and understands treatment efforts, with simple explanations Has developed some defenses to cope with anxiety	Primary source of socialization is family and peers
12–18 years		
Understands cause and effect Considers possibilities without experiencing them Not bound to what one can see and touch	Striving for independence from family (parents target of this conflict) Body image is important	Peer group exerts strong pressure Prone to taking irresponsible risks

Adapted from Blake, Wright, Waechter, *Nursing Care of Children* (New York: Lippincott, 1970).

3. Preparing for the Interview

Before interviewing the child victim of sexual exploitation, the investigator should be fully prepared by gathering as much information as is already available. Thoroughly review information about the victim, his or her situation, the offender, the nature of the offense, and the circumstances of the offense. Such data, of course, can come from many sources, but a primary source is whoever brought the information to official attention or the person to whom the child has made a disclosure. In instances in which the child has not made a disclosure, primary sources may be those who have had close contact with the child, such as parents, teachers, school counselors, or social workers. In this particular stage of collecting information, the investigator must be mindful of the confidentiality of the situation and of the need to protect the victim against embarrassment. Since interviewing one victim may lead to identification of other potential victims, confidentiality is also important to avoid cross-contamination of emerging evidence.

Reviewing Preliminary Information

Following is a list of the preliminary information to be gathered before the interview:

1. The full name of the child and what the child prefers to be called
2. Age and developmental assessment
3. Address or current location of the child, and best way to contact child (In cases in which the offender is a member of the family, determine whether the child or the offender will remain in the home.)
4. Custodian of the child, and best way to contact custodian
5. Identification of the suspected offender
6. Offender's relationship and duration of relationship to child
7. Offender's access to child
8. Name, address, and method of contacting potential witnesses
9. Present condition of the child
10. Identification of any other victims or potential victims

Such information is not only useful in preparing for the interview but is required for tactical case planning, which must include provisions for the protection of the victim.

It is helpful to know how the original information that has led to this stage of the investigation was developed. Questions to elicit such information follow:

1. Has the child reported the situation to family, friends, teachers, or anyone else?
2. What triggered the report: a TV program, behavior problem, family conflict, direct questioning?
3. What were the exact words the child used to disclose the abuse?
4. How was the report received (shock, indignation, blame, shame, threats of retribution, and toward whom)?

5. How does the child feel about the abuse, about the offender, about the reaction of the family, and about his or her personal safety?
6. What does the child want to see happen—*i.e.*, his or her personal concerns?
7. Is the child displaying any behavior that may be associated with trauma (frustration, acting out, depression, sleep disturbance, withdrawal, aggression, self-destructive acts, sexualized approaches to others)?
8. How many people have talked with the child about the abuse?

The responses to such questions will help the investigator evaluate how best to form an effective relationship with the child and establish the child's attitude about the incident.

The investigator should also evaluate the child's verbal skills, reading ability, normal range of behavior, memory, and past sexual experience or sexual knowledge. This information may be available from social service agencies that have dealt with the child. Otherwise, the information may be obtained from the child at the beginning of the interview.

The Child's Family

Prior to the interview, the investigator should develop a healthy and positive relationship with the child's parents. This is needed to ensure the long-term support necessary throughout the period up to and including a criminal prosecution.

Prepare to familiarize the child and the family with the steps in a criminal prosecution, the techniques used by defense and prosecution, and the decorum of the court. Such briefings should be positive and realistic to prepare both child and family for the long process ahead of them and to ensure their continuing commitment to the case. (*See also* Appendix 3, page 43.)

The Medical Examination

Another important concern in cases of child sexual exploitation is the physical well-being of the victim. Is the child experiencing physical trauma? Has the child been examined by *trained* medical authorities? Any child sexual assault victim who has experienced physical intrusion into any of the body cavities must be examined by a competent medical authority and tested for venereal disease and, with older girls, the possibility of pregnancy. The results of the examination may also be used for evidence. The interviewer may wish to remind the medical authorities to consider penetration of the anus even when the victim has not admitted to it. Victims have a great deal of difficulty telling about anal penetration and may only tell about it after the opportunity to gain medical evidence has passed.

A medical examination is a very sensitive issue. Approach the subject gently. Otherwise, you will create a traumatizing situation for the victim and a serious impediment to communication. Consider the age of the victim. With an older child, there is nothing wrong with openly discussing the possibilities of venereal disease and pregnancy. The subject of possible evidence from the examination should also be handled tactfully. Reasons such as "our policy requires" or "we need proof" are inappropriate. The first reduces the victim-investigator relationship to an impersonal level and implies that the examination is just another part of the job. The second reason appears to challenge the credibility of the victim. Also, the investigator should fully explain what will occur and should be supportive of the child throughout.

Others Present During the Interview

The number of people present during the interview is often a critical issue. In most circumstances, two people should be present. This allows one person to concentrate on the conversation and the other to evaluate the exchange. Only one person should pursue a particular issue at one time. The investigator must decide whether to include a parent in the interview. In the author's opinion, it is better not to include the parent in the interview, particularly when the child is older. A possible exception is the case in which the child has openly discussed the situation with a parent and that discussion has not had a negative impact on the child. Even then, it is likely that the child has tried to protect the parent from the full extent of the abuse. A sensitive interviewer will not only learn more from the child alone but will be able to help the child by offering to share the more embarrassing details with the parents.

Decision to Record

Since it is possible that almost any kind of information collected might prove useful in the future, it is important that some sort of documentation be made of every interview conducted. Several methods are available, such as note taking, audiotaping, videotaping, and post-interview synopsis. Prior to the interview, make a decision about which recording method suits the needs of the case. The investigator should decide how to record the interview after analyzing the effect of state rules of criminal procedure on discovery, privilege, and evidentiary use of videotape as well as any statutory provisions for confidentiality imposed on any of the participating agencies. Consider also the effect of the choice on the victim; his or her behavior or responses may be affected by the method of recording.

In the author's opinion, it is better not to attempt to record an initial interview using audiotape or videotape because of the great length of time and the rambling nature of exploratory conversation. Furthermore, the private nature of a conversation that comes to grips with the child's feelings toward self, family, and others should not be available for subpoena. The investigator should also be aware that quite often during this kind of interview, information may be developed regarding more than one suspect, and premature disclosure of such information could be harmful to future prosecution.

During a later interview with the child, in which conversation may be specifically directed, a tape-recorded or videotaped discussion may be very beneficial to prosecution. Whatever method is used, however, be sure the child understands what is occurring, and be careful that the process does not become a distraction or inhibitor to the interview. *Note*: It is best to develop an agency policy defining proper recording and to protect that policy against defense demands for videotaping or whatever exposure will be most intimidating to the child.

Selecting the Interview Site

Selection of the interview site is a critical decision in the interview process. Both the interview site and the pre-interview setting can significantly affect the responsiveness of the child. Some investigators suggest that the most comfortable place for the interview is at the child's home; however, it is suggested that this may not be the case when interviewing a child who has been sexually exploited at home. Experience has proved that effective interviews can occur in many places, such as in playgrounds, automobiles, walking around the block, and so

on, but it is recommended that the investigator have a separate room designed specifically for the purpose of interviewing a child victim.

A child likes to be flexible and may behaviorally express a need to be mobile. This should be allowed by nonrestrictive positioning of the child in an area that will allow a good degree of movement, has comfortable seating, and contains age-appropriate diversions. Drawing materials and coloring books are excellent for younger children and may also provide an opening for the interview. The actual interview room should be comfortable and absent of authority symbols that increase distance between child and interviewer. Physical barriers psychologically distance people and can intimidate children. The investigator should strive to position himself close enough to the victim to facilitate touching, if required, but not so close as to invade personal space. The positioning should not make the child feel trapped, threatened, or insignificant.

The site must also be private enough to minimize interruptions, which can divert the child's attention or increase tension in an apprehensive child. The site should be free of distractors—but not stark. Particularly inappropriate are gruesome posters, photographs, or items using "graveyard humor." Intense and harsh or morbid and dark colors should be avoided. Remember that the design objective of the interview room is to provide a space to facilitate free, open conversation with a child victim in a comfortable, supportive environment.

4. The Interview

It is vitally important to establish a non-threatening, sincere, cordial, and non-judgmental relationship with the child victim from the very start. The interviewer should be aware of the child's difficulty in discussing exploitation with an adult authority figure—particularly in those situations in which the child believes he or she shares some blame for the exploitation. *Note*: For an excellent discussion debunking the notion that children are responsible for their own victimization, see Mary de Young, "Counterphobic Behavior in Multiply Molested Children," in *Child Welfare*, Vol. LXIII, No. 4 (July-August 1984), 333-339.

Keep in mind that you must continually assess the child's credibility and search for corroboration throughout the interview and subsequent investigation. Although the rules of evidence are changing to delete any *requirement* that there be corroboration before a child's testimony can be presented, in actual fact it is still difficult to obtain a favorable decision in the courts without such evidence.

Beginning the Interview

At the beginning of the interview, much time should be spent in "conversational visiting" with the child, discussing familiar and non-threatening subjects in a very informal manner. This eases the child's anxiety, puts the child in a responsive frame of mind, and helps accustom the child to answering questions. This is also a time to obtain those pieces of information not available in the preparation stage and to evaluate the ability of the child to communicate. The investigator should note "body language" and become aware of the child's sensitivity to certain issues. During this time the investigator should demonstrate that he or she is comfortable with what the child says and how it is expressed. Then, the investigator should slowly make a smooth transition into asking more relevant questions about specific details.

Throughout the interview the investigator should make no judgments about the child, the offender, or any kind of activity described. At some later point it may be appropriate to express emotion, but before the investigator understands how the child feels, a judgmental reaction may have a negative effect on the child and very well may terminate the interview. Reflective listening skills, again, are a good way of clarifying such emotions (*see* page 3).

The Proviso At the beginning of the interview the investigator may want to introduce a "Proviso"—a document that states that anything the child says concerning the exploitation will not be used in any way to prosecute the child victim (*see* Appendix 4, page 44). This document is signed by both the investigator and the child and then given to the child. This simple, formal gesture has some very positive benefits as well as legally restricts the use of any information developed that may harm the child. The youth is given a feeling of worth and a sense of control

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over what is occurring, and he has something tangible in his possession for reassurance. On several occasions the author has observed a child, during a particularly difficult part of the conversation, look at or touch the Proviso, and then continue talking. Understandably, some police officers may have some reservations about such a document, but examining the philosophy of the child victim in sexual exploitation cases, understanding the necessity of building trust with the youth, realizing the ploys used by offenders to entrap child victims, and knowing the emphasis placed on such investigations may help overcome reservations.

Should the investigator decide to use a Proviso, care should be taken to comply with local statutes and federal court rules. Be sure to consult with the prosecutor, the district attorney's office, and your department head.

Anatomically Correct Dolls

One of the difficulties in interviewing the sexually exploited child is to encourage the child to discuss the specific details of the abuse. Often children lack the terminology to discuss sexual matters, or they may be reluctant to do so. The use of anatomical line drawings or anatomically correct dolls may be useful in these cases. *Note*: Examples of anatomical line drawings may be found in A. Nicholas Groth, *Anatomical Drawings: For Use in the Investigation and Intervention of Child Sexual Abuse* (Newton Center, Massachusetts: Forensic Mental Health Associates, 1984).

Anatomically correct dolls are male and female dolls realistically designed with all body parts, including genitals. If properly used, these dolls can be a valuable tool to facilitate communication with a child victim. Such dolls allow the victim to "show and tell" graphically what occurred. They are designed to simplify the interview process by clarifying any language problems that might exist and by providing a medium for demonstrating visually what is too difficult to express verbally.

Some training is necessary to utilize the dolls effectively. The first step is for the investigator to become comfortable with the dolls. Any discomfort on the investigator's part will be sensed by the child and may affect the interview.

The best way to start is to sit down with a group of coworkers and undress and dress the dolls. Try to recall difficulties that you have encountered in past interview situations. Practice using the dolls to overcome those problems. For example, one problem that could occur is that a child may feel too old to use the dolls or may be embarrassed by them. A reasonable response to such a situation may be to set the dolls aside but to keep them accessible, should the victim change his mind.

Using Anatomically Correct Dolls Some specific suggestions for using the dolls are the following:

- Treat the dolls seriously when working with them. They are professional tools—not toys. Make sure to determine beforehand any cultural aversion to using these kinds of dolls—particularly in Native American children.
- If it is necessary to explain the use of the dolls to the child's parents, do so privately to avoid possible prejudice of the child.
- Introduce the dolls according to the age of the child. For an older child, it is proper to say, "These are tools I sometimes use to make it easier for you to describe what happened." For a smaller child, say, "These are my dolls." (Give the dolls to the child.) "Do you have any dolls?" (Be prepared for the child to

undress the dolls and react to the genitals.) "How are my dolls different from yours? Can you show me the difference? What do you call this part of your body?" (It is important at this time to point to several body parts in addition to the genitals. This will help to evaluate the child's verbal skills.)

- Also use the dolls to establish the child's ability to recognize color by asking "What color is this?" (pointing to various items of clothing).
- Use extreme caution in "naming" the dolls. Only use the child's name and the name the child calls the offender. Introducing other names for the dolls could be construed as fantasizing by a defense attorney.
- Avoid any misleading reference to the "offender" doll, such as "the bad guy," "the creep," or "the nasty man." The defense may argue that you suggested the concept of the suspect as a bad man.
- Similarly, avoid using any form of dialogue between the dolls. The defense may accuse you of leading the witness or suggesting situations. It is appropriate, however, for you to ask the child what the dolls said to each other.
- It is best to let the child play with the dolls without prompting but with observation. Follow up by asking the child to furnish details on what was demonstrated.

Anatomically correct dolls are an investigative aid and should complement, but not replace, good interviewing skills. The dolls may allow a young victim to demonstrate or verbalize what occurred—perhaps for the first time—thereby exposing a trauma that has been cloaked in secrecy for too long. This should facilitate further discussion of the experience. The objective of the interview is for the investigator to assist the child in verbalizing the exploitation in a healthy way.

Questioning the Child Victim of Sexual Exploitation

When beginning to question the child about the sexual exploitation, the investigator should make sure that the language used is simple and non-judgmental. Be alert to signs of confusion or inappropriate replies from the child. Try to determine if the child truly understands what you are asking.

The investigator should never attempt to obtain the answers to a question by threat, intimidation, or coercion. To do so will jeopardize any relationship that has developed and may result in the child viewing the investigator as just another adult manipulator whose interest is not in the child but in obtaining the answer to a question.

One of the unfortunate characteristics of sexual exploitation that may become a real hindrance to the investigation is that the offender usually has established a bond or secret pact with the child, whether through affection, coercion, or guilt. Such a bond is a source of trauma for the child and may inhibit the child from disclosing what has occurred. The investigator must make a conscious effort to make the child understand that he or she can freely talk about the exploitation.

Effective questions, of course, are the primary tools of the interviewer. The interviewer's questions should be as precise and relevant as possible. Keep them simple, direct, and open ended. Complex, multi-directional questions lead to confusion and misunderstanding. Such questions may also elicit unintentionally false responses. Questions requiring a *yes* or *no* answer should be used mainly for clarification and summation. Make sure to consider all the sexual exploitation offenses, not just the ones the child is willing to admit to at the moment. As for actually obtaining a statement about the

incident, the traditional questions are still perhaps the best investigative tools to use—*who*, *what*, *when*, *where*, *how*, and *why*. The answers must be obtained in a manner that is both sensitive to the needs of the victim and responsive to the legal requirements for use in case prosecution.

Important Information to Obtain The investigator should have a firm idea of what information is needed from the interview. The specific and complete details of a crime must be obtained before a prosecution can be initiated. Therefore, the investigator must be thoroughly knowledgeable of the statutory requirements for specific offenses relating to child sexual abuse prior to the interview so that the interview will successfully reveal all the elements required for prosecution. Guidelines for obtaining important information from the interview follow:

1. Obtain a description of the offender in as much detail as possible, even if the offender is known by name.
2. Obtain a description of the offender's clothing, vehicle, or house.
3. Determine the number of and specific acts committed by the offender.
4. Determine how the offender induced the child to perform or submit to such acts.
5. Attempt to pinpoint dates and times.
6. Determine if pornography or erotica was present or was used and, if so, what kind, how much, and where it was kept.
7. Determine if drugs were used and, if so, what kind and where they were kept.
8. Determine if the child was photographed and, if so, what kind of camera was used and where it was kept.
9. Ask if the child saw photos of other children, and obtain their descriptions.
10. Determine if other children were involved in or present during any of the acts, and attempt to identify them.
11. Determine if the child knows any other adults who participated in the acts or associated with the offender.
12. Determine if the child has been victimized by other persons.
13. Ask if the offender went to the child's home or called the child on the phone.
14. Ask the child if he ever gave his name, address, or phone number to the offender and, if so, how the offender recorded it.
15. Determine if the child saw other children give such information to the offender and, if so, how it was recorded.
16. Ask if the offender has a diary or computer.
17. Ask if the child played with any toys or books at the offender's home and, if so, obtain detailed descriptions.
18. Determine if the child left any personal belongings in the offender's possession.
19. Ask if the offender gave the child any gifts.

Many other questions may also be important to a specific case, but those mentioned above have a particular relevance to all sexual exploitation cases. These kinds of questions assist in obtaining information for a search warrant and may serve to corroborate a victim's account of the incident. Also, a special effort should be made in every interview to identify other victims or offenders.

With children who may have to undergo a competency hearing before being permitted to testify, an additional question may be in order. Ask if the child knows the difference between the truth and a lie. You do not need to use a dictionary definition. You can say, "If I say it is raining in this room, is that the truth?" Then

ask the child if what he or she has told you today is the truth.

Questioning Techniques: When? The investigator should be cautious in asking "when" questions. Repeated verbal pounding regarding specific times may prompt the child to provide unintentionally false responses or to perceive that he or she is not believed, thereby increasing anxiety. The child's responses to "when" questions depend upon the stage of the child's development (both at time of incident and time of interview), the time between the incident and the interview, and the number of occurrences (multiple incidents tend to merge into an almost indistinguishable mix).

Young children have difficulty in describing dates and times in an adult framework. For instance, the abstract notion of "August 12, 1986" is difficult for the child to conceive, but "the day you got your shot at the hospital" is not. Older children can usually provide reliable information about dates and times. A useful technique to obtain reliable "when" information from children is to associate the incident with familiar events: holidays, the child's birthday, the birthdays of family members, the school year and grade level, seasons of the year, and special events within the family. You may want to focus on some important event in the community and then build a time frame around that event. Similarly, you can establish time frames by referencing the incident to known events in the child's day, such as getting out of school, mealtimes, television shows, bedtime, and so on.

Questioning Techniques: Do Not Imply Blame Ask questions in a manner so as not to imply blame or active participation on the part of the child. For instance, the question "Did you put his penis in your mouth?" implies active participation on the part of the child. This kind of question reinforces guilt and is often more difficult for the child to respond to than "Did he put his penis in your mouth?" Both questions refer to the same act of oral sodomy, but the rephrased question emphasizes the action of the offender, not the action of the child. Similarly, avoid direct "why" questions, since they place an accusatory burden on the child.

Closing the Interview

At the end of the interview, spend some time in determining how the child feels about the situation and his or her concerns, fears, and future expectations. It is of extreme importance that no promises be made that cannot be fulfilled. Do not allow the child to leave the interview with an unreal expectation of what you as an adult authority figure are going to do. Reaffirm that the child is not to blame for what happened. Emphasize that the child did the right thing by disclosing the abuse.

Make sure to close the interview on a positive, supportive note. The child must clearly understand that he or she can call you as needed for support or reassurance.

Conclusion

Although the interview is fundamental to the investigation of child sexual exploitation, it is only a small part of what must be done for successful case conclusion. The information contained in this handbook can help investigators interview child victims effectively. It is the investigator's responsibility to use the information in the best interests of the child.

The investigator must use every legitimate technique to validate the child's statement independently. "Proof beyond a reasonable doubt" should be the cri-

terion for presenting a case for prosecution. Ideally, such a wealth of evidence should be available that no doubt is cast on the child's statement; however, in reality, only in very few cases does physical evidence of sexual abuse support the child's statement. More common are cases in which there may be corroborating statements of witnesses. In some cases there may be no witnesses but, rather, a pattern of incidents of a single offender with multiple victims. In more difficult cases there may be no physical evidence, no witnesses, and no pattern of incidents.

The decision to present a case for prosecution should be a joint decision of both law-enforcement and the social services agency, based on the determination that the elements of the offense can be proved and that prosecution will not have an adverse effect on the child. The decision not to prosecute does not imply disbelief of the child, however.

In some situations it may become necessary to doubt some portion or all of the victim's account of the crime; simply because some parts are false, however, does not mean that all facts are necessarily false. It is the author's opinion that the child victim should be believed until it can be proved that the event could not have occurred.

Special Cautions in Investigating Ritualistic Child Sexual Abuse

In the past few years a curious amount of attention has been paid by the media to the ritualistic sexual abuse of children, often focusing on alleged satanic and cult symbols, paraphernalia, and bizarre activity. Such media focus has often created a climate of public anxiety—anxiety that has culminated in law-enforcement agencies being asked for specific community crime prevention and enforcement. Sometimes even seasoned investigators have discovered that inadvertently their fact finding takes second place to assessing flashy ritualistic symbols, paraphernalia, and bizarre activity.

The investigation of incidents of child sexual abuse involving ritualism, usually in daycare, neighborhood, or extended family settings, must be treated the same as the investigation of any other serious crime. While not always possible, a prime investigative objective in all cases of child sexual abuse should be the corroboration of facts in order to eliminate the necessity of the testimony of child victims in open court. Corroboration is particularly important in cases of ritualistic child sexual abuse for which the common elements are 1) multiple young victims, usually of preschool age, 2) multiple offenders, 3) fear as the primary controlling tactic, and 4) bizarre activity. Should the case also involve a noncustodial parental kidnapping or custody dispute, it will be further complicated and more difficult to investigate.

In cases of ritualistic sexual abuse, *all* allegations must be carefully, systematically, and fully investigated. With the objective of corroborating the child's testimony, the investigator should employ case-handling techniques similar to those in criminal conspiracy cases, with emphasis on a search for physical evidence. Just as child erotica may provide corroboration and substantiation of a pattern of adult desires and behaviors toward children in the case of a child molester, cult and satanic symbols, paraphernalia, and bizarre activity may be used to corroborate and substantiate the ritualistic sexual abuse of children. The acts charged for prosecution in each are the sex crimes, and such should be the prime focus of the investigative effort, *not* the child erotica, rituals, cults, satanism, or bizarre activity.

S.S.A. Kenneth V. Lanning suggests that the investigator constantly be aware that 1) almost anything can happen, 2) each act alleged may *not* have happened, and 3) because one act alleged did not occur does *not* mean that another act alleged did not occur. Since dependence cannot rest only on having "details" as the criteria for truth, attention must be focused on the determination of the consistency and credibility of victim children via *interview* and *assessment* of those children—not only in the present setting but also before, during, and after the alleged crime.

It must be understood that children, depending on their age and developmen-

tal maturity, mentally process traumatic events with more difficulty and more incompletely than adults and may incorporate misperceptions, confusion, or fears into their accomodation and later accounting of the events, particularly if drugs were used. Care should be taken to maintain separate interviewing and to avoid social interaction or intermingling of these young victims to prevent contamination of testimony. The investigative team ideally should include a law-enforcement investigator, who leads and manages the investigation, and a social service professional, who may lead the actual interviewing process and provide social service support systems.

Investigators should try to secure consultation from departments that have successfully managed ritualistic child sexual abuse cases. It is essential to talk with investigators and prosecutors as well as psycho-social experts in the field of assessing traumatized children or those who have a demonstrated record of treatment with multiple child victims of ritualistic sexual abuse. Law-enforcement agencies should prepare contingency plans for the handling of ritualistic child sexual abuse cases, giving particular attention to the stress that is likely to occur on manpower, resources, specialized training, and social service support systems.

Only competent investigation can protect children by providing them the ability to reveal their abuse and their abusers with credibility and support.

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Considerations in Obtaining and Using Expertise Search Warrants in Cases of Preferential Child Molesters

The premise inherent in this chapter is that certain individuals in our society are (for whatever reason) attracted sexually to children. These individuals may violate the mores of our society by initiating sexual contact (of whatever variety) with a child as a partner. Not all sexual offenders prefer sexual contact with child victims. Indeed, not all child molesters prefer children as their sexual partner. For example, a convicted child rapist may have selected a child victim merely because the child was available and vulnerable.

> The Preferential Child Molesters have a definite sexual preference for children. Their sexual fantasies and erotic imagery focus on children. They have sex with children not because of some situational stress or insecurity but because they are sexually attracted to and prefer children.—Kenneth V. Lanning, *Child Molesters: A Behavioral Analysis* (Washington, D.C.: National Center for Missing and Exploited Children, 1986)

It is further the premise of this chapter that those sexual offenders who do prefer children as their primary sexual partner frequently display certain behavioral characteristics. These behavioral characteristics are displayed so frequently within this population of sexual offenders that specially trained and experienced law-enforcement officers, psychologists, psychiatrists, etc., may be able to predict, with some certainty, the existence (and possibly the location) of certain kinds of evidence based on a full and complete understanding of these behavioral patterns.

For example, just as specially trained and experienced narcotics investigators may be able to predict that a known dealer in narcotics is likely to possess narcotics paraphernalia, packaging material, cutting agents, etc., experts in child molestation investigating a case of a sexual offender whose preferred sexual partners are children may be allowed to predict that this sexual offender may possess and use child pornography in order to seduce the child selected as his (or her) next target. The child molestation expert may further be able to predict that this offender will have taken (and kept or secreted) pictures of his past (and present) sexual partners. These photographs may include several of the children engaged in sexual activity that the molester will use either to blackmail the child into continued silence about the molestation, to arouse the molester, to arouse the child, or to lower the inhibitions of other potential child sexual partners by showing them that other children participate in this kind of activity.

By applying expert knowledge and experience to the facts of a case under investigation, the investigator should be able to increase the scope of an investi-

gation, focus on additional questions to ask the known child victims, and target additional items of evidence for further investigation and consideration. If the investigator knows that child molesters who prefer child sexual partners frequently molest many children, the investigator may then consider the need to talk to other children who may also have been victimized by this offender. If the investigator learns that preferential child molesters frequently utilize computer equipment to store information about their sexual relationships with children or to communicate with other preferential child molesters via a "computer bulletin board," the investigator may want to expand the scope of his or her investigation to include possession and use of computer hardware and software by the suspect.

Search warrants are a significantly underutilized investigational tool in child sex crime investigation. The officer should be alert for ways in which to broaden the scope of the investigation in many ways and should consider the possibility of pursuing evidence from a search warrant (traditional or expertise) or an otherwise authorized search in every case.

It is not within the scope of this chapter to conduct a full analysis of the variety of sexual offenders or paraphilias that have been identified, analyzed, and classified in the psychological literature. It is further not within the scope of this chapter to reprint a full behavioral analysis of child molesters. (Additional readings are listed in the back of this chapter.) It is, however, important to begin this chapter with an understanding of the limited nature of the so-called "pedophile search warrant."

Sexual offenders who are not child molesters are not likely to fit this behavioral pattern. Indeed, child molesters who do not prefer children as sexual partners are not likely to fit this behavioral pattern. Application for issuance of "pedophile search warrants" in cases in which the suspect does not prefer children as the primary sexual partner may result in the investigator finding few of the described items. A magistrate who is asked to issue many search warrants that ultimately prove to be unproductive may begin to question either the affiant's expertise or (worse) the validity of the entire behavioral analysis.

Therefore, caution is urged in the use of the expertise warrant. Do enough investigation to establish that the suspect is a preferential child molester. Further, corroborate the predictions in the behavioral profile with facts garnered in your investigation of the particular suspect. (*See also* Appendix 2, page 42.)

Also, be careful in your selection of an expert affiant. Your expert must have sufficient expertise to be able to make valid judgments about whether or not your suspect is indeed a preferential child molester and what behaviors (and therefore evidence) one can predict a preferential child molester to possess. Attaching a copy of a behavioral analysis of child molesters to a copy of your affidavit containing case facts is not recommended because the expert has not considered the facts of your particular case and determined that your suspect is likely to be a preferential child molester. (Providing your magistrate with additional educational materials on the general subject is permissible, however, if acceptable to your magistrate.)

Some additional cautions may be necessary. The terms *pedophile* and *pedophilia* are psychological or psychiatric diagnostic terms with specific meanings within those professions. For example, some psychological or psychiatric professionals differentiate between *pedophiles* (those who prefer pre-pubertal children) from *hebephiles* (those who prefer post-pubertal children). Although it has

become common in police jargon to refer to both of these offenders generally as pedophiles, use of professional diagnostic terminology in legal proceedings has resulted in challenges to the expertise of the investigator. Accordingly, it is recommended that law-enforcement officers avoid the use of such loaded psychiatric terminology.

The materials contained in this chapter are not intended to be duplicated and used as a fill-in-the-blank model warrant. They are intended to be a guide and a discussion of the legal considerations involved in the use of these warrants in appropriate cases. In addition, they may provide suggestions for items to include in an application for a warrant if justified by the facts of a particular case. **Boilerplate clauses are likely to be invalidated.**

> But nowhere in all these 24 pages was there alleged *one single fact* that gave probable cause to believe that any of the boilerplate allegations of the warrant were true. In particular, the affidavit failed to state any fact whatever to support an inference that defendant actually possessed the "personal diary notations" or "writings" listed in clauses two and eight of the warrant. . . .
> —*Peo.* v. *Frank*, 38 Cal.3d 711, 728 (1985) (Death penalty sentence reversed.)

The officer should also take into account when reading this chapter that these materials were drafted with a national audience in mind. The laws and rules listed herein are reflective of the general state of the law nationally. As each state and local jurisdiction will have variations, the warrant and affidavit must be crafted to withstand challenge in the jurisdiction in which it is sought. **Consult your local legal counsel concerning the special requirements of your local jurisdictions.**

Finally, the officer should keep in mind that EXPERTISE WARRANTS HAVE YET TO UNDERGO SHARP CHALLENGE IN THE APPELLATE COURTS. Accordingly, investigating officers should continue to use caution in obtaining and using these kinds of warrants.

Guide to Drafting an Expertise Search Warrant and Affidavit

Although this kind of search warrant has rarely faced sharp challenge in the appellate courts as yet, potentially one of the most fruitful areas of challenge may be the sufficiency of expertise on the part of the affiant. Thus, it is recommended that the investigator who cannot qualify as an expert seek out and cultivate others in the community who do have sufficient expertise. If, due to distance or other factors, the affiant cannot submit an individual sworn affidavit, the expert's opinion may be presented as hearsay in the investigating officer's affidavit. Be sure to comply with all requirements for hearsay warrants if you choose this option.

AFFIDAVIT(S)

A. Introduce and establish expertise of affiant.

1. Name the affiant, state his or her position, title, and the number of years the affiant has been active in his or her field.
2. State the general educational background of the affiant (including degrees obtained, what institutions awarded the degrees, and when the degrees were awarded) and/or general police academy training.

3. List all special training and education of affiant pertaining to the investigation of sexual offenses (or the diagnosis and treatment of sexual offenders). This should include all special academy or other follow-up police training courses (by name of course and number of hours). If special educational courses have been attended (and completed) by affiant, these should also be listed (including sponsoring educational institution, name of course, dates attended, identity of instructors, and degrees awarded, if any). If affiant has attended any specialized training conferences, include similar information about these conferences. **In your description, focus special attention on special training or education in the area of child molestation or preferential child molestation cases.**
4. List all relevant professional societies to which your affiant belongs.
5. List all honors/awards/special certificates received or earned by your expert affiant. **Direct the magistrate's attention to any that were awarded or earned for achievement in the area of child sexual offenses—especially those involving preferential child molesters.**
6. Describe the expert affiant's experience. **Focus especially on the affiant's experience with cases involving preferential child molesters.** In the description, include the number of years the affiant has worked in this field, how many cases the affiant has handled involving preferential child molesters, and in what capacity the affiant participated (*e.g.*, trainee, investigator/therapist/supervisor, etc.).
7. If your affiant has previously qualified as an expert witness in cases of this nature, describe those cases, including the number of times, the nature of the court or the court pro-

Do not be modest in describing the expertise of your expert affiant. If you do not supply enough facts to the magistrate *in the affidavit* to establish your affiant as an expert, a later challenge may invalidate the warrant.

In the event that your expert affiant has testified for the prosecution and for the defense as an expert witness, mention this fact, as it helps to establish the impartiality of the affiant.

ceedings, and whether or not convictions were ultimately obtained. **If your expert affiant has testified for both the prosecution and the defense in criminal cases, mention this fact.**

8. If your expert affiant has experience in teaching or has served as consultant for another department, agency, or educational institution in matters pertaining to preferential child molestation, mention these facts. Also describe any professional articles or books written by the affiant.
9. *Miscellaneous:* If your expert has any other qualifications relative to his or her expertise in recognizing and predicting the behavior of the preferential child molester, add them to the affidavit as well. You may want to add the number of times the affiant has interviewed a child victim of this kind of offense and/or the number of times the affiant has interviewed admitted molesters.
10. In many cases, it will be necessary to establish your expertise in such diverse areas as **photography, computer hardware and software, videotape technology, visual identification of age of a child from a photograph of a child, child pornography or child prostitution, child sex rings, or multiple victim/multiple offender case investigations.** In the event that the facts of the case under investigation require that an expert have reviewed the evidence uncovered by the investigation and rendered an expert opinion on some aspect of the evidence, follow the above format (education, experience, special recognition of expertise, such as honors and awards, qualification as an expert witness on other occasions, etc.).

Professors from local colleges or universities may be useful resources for expertise in these areas. You might want to consider asking a reputable pediatrician or family doctor for assistance in providing the magistrate with an expert opinion that the child pictured in the photograph is indeed a child. You may find a willing expert by contacting your local children's hospital. In general, the older the child pictured in the photograph, the greater the need for specialized expertise in the area of recognizing the age of the child through medical developmental characteristics. In cases of young children, the courts have been more willing to accept the opinion of a layman.

In the event the suspect has stored evidence in a computer memory bank, you will undoubtedly need the assistance of a computer expert. Many programs allow a security code to be installed that will block access to a particular file unless the correct access code is given to the computer. Some of these programs also provide for the destruction of the information stored in the file unless the correct access code is used. Accordingly, you may need to have available someone who can break the code.

Also consider cultivating the services of a computer consultant to assist you in accessing "computer bulletin boards" used by preferential child molesters to communicate with each other and to share information about child sexual partners. You may be able to obtain highly probative evidence concerning the suspect's sexual activities if your suspect uses such a bulletin board.

B. Recount the facts uncovered by the investigation to date, apply your (collective) expertise to interpreting the facts, and thus establish probable cause to search.

Probable cause is usually defined as reasonably trustworthy information concerning such facts and circumstances as would warrant a man of reasonable caution in the belief that an offense has been or is being committed or that evidence of a crime can be found in a particular location—*Brinegar* v. *United States* 338 U.S. 160 (1949).

The section of the affidavit establishing probable cause will vary dramatically from case to case, depending on the facts uncovered by the investigation undertaken to date. Certain basic rules will apply, however. In the event that the investigation was initiated by a report of a specific child having been sexually molested, keep in mind that the way in which you receive the information may be key to the formation of the probable cause portion of the affidavit. In the event that the police or, more commonly, the children's protective services agency receive an anonymous tip concerning the crime, you may have to establish both the basis of the informant's knowledge (*i.e.*, personal knowledge) *and* that the informant is reliable—*Aguilar* v. *Texas*, 378 U.S. 108 (1964)—or that the information contained in the tip has been corroborated in some other approved manner—*Spinelli* v. *United States*, 393 U.S. 410 (1969). **Consult your local legal counsel concerning the impact of *Illinois* v. *Gates*, 462 U.S. 213 (1983) on the quantum and source of the corroboration that must be produced.**

In the event that the investigation began with a child having reported that he or she was molested by the suspect, the letter of the law imposes no obligation to corroborate the crime report of presumptively reliable citizen crime victims. It would be naive to suggest, however,

that the courts view the report of a child sex crime victim as presumptively reliable. Therefore, the wisest course is to seek corroborating evidence and to present information concerning any and all such evidence to the magistrate in the affidavit.

In cases of child sexual molestation, the investigator should consider and evaluate (and consult with appropriate experts) whether the suspect in the individual case displays behavior consistent with that commonly displayed by preferential child molesters. Did the suspect allegedly seduce the child victim? Or did the suspect kidnap and rape the child? Did the suspect spend time, attention, perhaps even money, on the child? Did the suspect show the child pictures of other children or adults engaged in sexual activities or sexually arousing poses in order to lower the child's inhibitions, arouse the child, or arouse the offender? Were other types of erotica used or displayed to this child for similar purposes? Has the suspect indulged in similar behavior with other children?

Look for evidence of other types of preferential child molester behavior in your initial investigation as well. This will serve the dual purpose of providing information upon which your expert can base an opinion, and it will serve as an additional basis to (reasonably) believe that a search of premises controlled by the suspect will result in the discovery of evidence of the suspect's commission of this crime. Such evidence might include:

- correspondence with other persons interested in sexual behavior with children
- diaries or other records of child sexual partners, including names, dates, and types of sexual activity
- phone or address books in which the suspect records the name, address, or

phone number of child sexual partner(s)

- child or adult pornography
- photographs, movies, slides, videotapes, or drawings of children or adults engaged in sexual activity or sexually suggestive poses
- camera equipment with which the suspect has taken photos of the child victim or other children engaged in sexual activity or in sexually suggestive poses
- sexual paraphernalia or other erotica used by the suspect in the course of seducing the child victim or other children of which the investigator gains knowledge
- computer hardware and software (and computer skills) used by the suspect in storing personal records and information concerning personal business transactions
- information concerning any safe deposit boxes, storage facilities, etc., used by the suspect for storage of records or personal belongings

Once the evidence is gathered, then the expert must interpret the facts. The facts discovered by the investigation combined with the opinion of the expert affiant concerning the import of these facts are combined in the affidavit to demonstrate that there is probable cause to believe that not only are certain items observed by the named witnesses likely to be found in premises controlled by the suspect, but also that the suspect is likely to exhibit other behaviors common to those who prefer children as their sexual partner. Thus, there is also probable cause to believe that evidence of these behaviors will also be found in premises controlled by the suspect—evidence that will be relevant to identify other known (but not as yet identified) child molestation victims, the age and gender preference of the suspect, and that will assist in the corrobor-

The assessment of probable cause depends on the totality of the circumstances, including considerations of modes or patterns of operation of certain kinds of lawbreakers. From this information a trained and experienced officer draws inferences and makes deductions—inferences and deductions that might well elude an untrained person—*United States* v. *Cortez*, 449 U.S. 441 (1981).

Although the magistrate is entitled to consider the opinions of experts concerning special modes or patterns of operation of certain kinds of lawbreakers in determining whether probable cause exists to justify issuance of search warrants, reviewing courts have not viewed reliance on a behavioral profile (without more) with overwhelming enthusiasm.

Although few cases of challenges to search warrants have yet been reported by the appellate courts in cases wherein probable cause was determined in partial reliance on a child molester behavioral profile, cases of searches initiated in reliance on the drug courier profile are analogous. In general, the courts, in considering drug courier profile cases, have held that the fact that an individual matches the profile, standing alone, does not justify law-enforcement intervention (stop/seizure/search). The profile is entitled to some consideration in establishing a pattern of operation among drug traffickers. Articulable facts discovered during

the course of an investigation may then be interpreted in light of the profile to establish probable cause—*Florida* v. *Royer*, 460 U.S. 491 (1983); *United States* v. *Mendenhall*, 446 U.S. 544 (1980); *Reid* v. *Georgia*, 448 U.S. 438 (1980).

It is therefore highly recommended that the officer not rely entirely on the behavioral profile to establish probable cause to believe that the suspect in a particular case will keep a diary, a collection of child pornography, an address book containing information concerning child victims, or any of the other behaviors indicated in the profile. The investigation should establish facts to indicate that this particular suspect indulges in at least some of these behaviors.

A request to search for and seize pornography, including child pornography, may include special First Amendment considerations. Although *New York* v. *Ferber* 458 U.S. 747 (1982) allows the states to constitutionally prohibit the production and distribution of material that depicts children in sexual activity even when the material is not obscene, questions still remain concerning to what extent officers executing a search warrant are authorized to search for or seize child and adult pornography.

The officer should be aware that there are differences that have legal consequences between child pornography and child erotica. *Child pornography* has been defined by Lanning (see above) as "the sexually explicit reproduction of a child's image, voice, or handwriting—including sexually explicit photographs, negatives, slides, magazines, movies, videotapes, audiotapes, and handwritten notes. . . . *Child erotica* is a broader and more encompassing term than child pornography. It can be defined as any material, relating to children, that serves a sexual purpose for a given individual. Some of the more common types of child erotica include toys, games, drawings, fantasy writings, diaries, souvenirs, sexual aids, manuals, letters, books about children, psychological books on pedophilia, and ordinary photographs of children. Generally, possession and distribution of these items does not constitute a violation of the law."

Depending on the circumstances of the case under investigation, some or all of these materials may be evidence in a child molestation case. In some cases, adult pornography may be used by the offender in seducing children, and the investigation may have uncovered evidence to the effect. Although this material may not be contraband (depending on the terms of the state child pornography statutes), this material may be evidence or an instrumentality of a crime. Thus, search and/or seizure should be permissible for evidence of this nature regardless of its characterization. **Applicable First Amendment requirements must be scrupulously observed, however.**

Special limitations will pertain to the extent to which officers can search for and seize adult pornography. Other considerations may limit the extent to which an officer can rummage through a suspect's entire pornography collection in order to pick out the child pornography. Officers should be aware of another potential trouble spot—the extent to which they can seize movies, videotapes, and otherwise undeveloped film in the event that the content of the material cannot be ascertained without displaying it on projection equipment. Some jurisdictions may permit the officer to view it on the scene with the suspect's own equipment in order to ascertain its content. Other jurisdictions may

ation of the modus operandi of the suspect.

Although the opinions of the experts will vary concerning what can legitimately be concluded about common behaviors and activities of preferential child molesters, affidavits filed in court proceedings to date have contained such statements as:

As a result of the expert's training and experience, the affiant has learned that preferential child molesters commonly

- receive sexual gratification and satisfaction from actual, physical contact with children and from fantasy that may be stimulated by viewing children engaged in sexual activity or in sexually suggestive poses (in person, in photographs, in drawings, or other visual media) or from literature describing such activity.
- collect sexually explicit or suggestive materials (whether of adults or children) consisting of photographs, magazines, motion pictures, videotapes, books, slides, and/or drawings or other visual media that they use for their own sexual arousal and gratification. Further, they commonly use this type of sexually explicit material to lower the inhibitions of the children they are attempting to seduce, to arouse the selected child partner, and to demonstrate the desired sexual acts.

require that these materials (or premises) be secured and a second search warrant be obtained.

Because some of this kind of evidence may be encompassed within First Amendment protections, and because the officer may have to inspect innocuous materials in order to ascertain what materials are properly subject to seizure, **the warrant must be exceedingly particular in its descriptions of property subject to search and/or seizure. Consult local legal counsel concerning applicable limitations.**

In addition, ensure that a strong nexus is shown between criminal activity and any request for authority to search for or seize pornography and erotica —whether of adults or children.

Also check with local legal counsel concerning the extent to which the plain view and good faith exceptions to the warrant requirement can apply to the search or seizure of materials protected by the First Amendment.

In the event that the magistrate will not authorize search or seizure of this kind of property, you might consider taking photographs of that material which is in plain view in order to preserve evidence of its existence and nature.

Include information of this nature to defeat any claim of staleness that may arise from dated information concerning evidence that a suspect has or maintains a collection of one or more of the kinds of materials discussed in this chapter—*Peo.* v. *Hernandez* 225 Cal. Rptr. 230 (1986).

- rarely dispose of their collection of sexually explicit material—especially if it is used by them in the process of seducing children.

It is essential when describing classes of evidence—especially documentary evidence—that the description be **particular** concerning what documents can be seized. The Fourth Amendment is designed to prohibit general searches. It requires that the officers be authorized by the magistrate to search for particular items of evidence. Once those items have been located by the officers executing the warrant, and all items of evidence, instrumentalities, contraband, etc., that are in plain view have been seized, then the search is to conclude.

The requirement of particularity is designed to direct the officers to the correct location and to limit the scope of the search. Thus, the courts have overturned searches that authorized seizure of "business records which are instrumentalities of tax evasion," *United States* v. *Cardwell*, 80 F.2d 75 (9th Cir. 1982), or "evidence of mail fraud," *United States* v. *Abrams*, 539 F.Supp. 378 (S.D.N.Y. 1982).

No court has yet imposed a requirement that search warrants may only be issued for specifically named items. See recommendations contained in Russell W. Galloway, "Fourth Amendment Ban on General Searches and Seizures," in *Search and Seizure Law Report*, Vol. 10, No. 6 (July 1983). Many courts, however, are now closely scrutinizing the particularity of the description when a request for authorization to search and seize entire classes of evidence is presented. Officers should pay particular attention to *Peo.* v. *Frank*, *supra*, and consult with local legal counsel concerning the requirements of the local jurisdiction.

- correspond with other preferential child molesters to share information and identities of their child victims as a means of gaining status, trust, acceptance, and/or psychological support.
- prefer contact with children of a particular gender or age range.
- obtain, collect, and retain photographs of the children with whom they are or have been involved. These photographs may depict the child in sexually explicit activity or may depict the child engaged in innocuous activity. If the child is a particular favorite, the photograph may be carried by the suspect on his or her person (such as in a wallet).

  Photos of children with whom such an individual has been involved are commonly used as a means of reliving the sexual encounters with the child or fantasies of such sexual encounters. They may be keepsakes from a loved one. Or they may be a means of gaining

status, trust, acceptance, or support from others who share a similar sexual preference. In the event that the photos depict children engaged in sexual activity, they are frequently used to blackmail the child into continued sexual activity or into keeping the molestation a secret. These photographs are extremely important to such individuals and are likely to remain in the possession of or under the control of such an individual for extensive time periods, perhaps for a lifetime.

- frequently cut pictures of children out of magazines, newspapers, books, or other types of publications. They also frequently create new pictures by cutting and pasting pieces of different pictures together. Often these cutouts will be assembled into an album or a collection of some sort. These collections or individual cutouts can be useful in determining the age and gender preference of the suspect.
- collect or maintain collections of books, magazines, newspapers, or other writings concerning sexual activities of and with children. This kind of publication can be part of the individual's seduction modus operandi, a means to understand their sexual attraction to children, and a way of justifying or countenancing their sexual attraction toward children.
- use sexual aids or sexual toys, such as dildos, vibrators, etc. These items are commonly used to arouse the curiosity of the selected child sexual partner as well as to sexually arouse the child and the adult.
- own and operate photographic production and reproduction equipment. Such individuals are commonly fearful that commercial photo developers may report them to law-enforcement authorities, and so they produce (and reproduce) their own materials.

When seeking authority to search and seize items that do not plainly appear to be evidence of the crime under investigation or an instrumentality of that crime, ensure that the nexus between the items sought and the criminal behavior is clear. For example, when seeking authorization to seize sexual aids, sexual toys, or any kind of erotica or pornography (child or adult), ensure that you have established probable cause to believe that the suspect uses such items as part of the modus operandi of the seduction of child victims or otherwise establish a strong nexus.

When seeking authority to search for and seize items such as photographic production and reproduction equipment or computer hardware/software, ensure that you have established probable cause to believe that these (otherwise innocuous) items are instrumentalities of the specific crimes alleged. A general seizure of such items may invalidate the warrant or portions thereof. Absent a forfeiture clause or plain view observation connecting such items with other identifiable crimes (occurring in your jurisdiction), officers will not be entitled to seize such innocuous items.

In at least one jurisdiction, courts have allowed the expert to accompany the officers executing the warrant so that the expert can examine the equipment and determine, on site, whether the equipment was used in the commission of the crime—*Peo. v. Superior Court (Moore)*, 163 Cal. Rptr. 906 (1980). In that jurisdiction, however, the statutes expresaly authorized such expert consultation. *See also Forro Precision, Inc. v. IBM*, 673 F.2d 1045 (9th Cir. 1982) holding that IBM employees who served as expert consultants to the execution of a search warrant were immune from civil liability.

Searches for information on computer disks pose special problems—in addition to the ones already described herein. Yet they also reflect the state of the art in data collection and retention. Officers cannot afford to ignore the possibility that the suspect is using a computer for storage of this kind of information.

Officers not familiar with the use of this equipment should be aware that if the computer is on or in use at the time entry is effected, unplugging the computer or even turning it off without first "saving" the data into the computer's memory banks may result in the complete loss of all data. Accordingly, you must "save" the data first; also, be sure to copy all disks before trying to access the information. It is recommended that the officer take along someone who can do this. Unless you are an expert, do not try this yourself.

Of more importance, however, in obtaining information from a search of the suspect's computer files is the inability of the officer to recognize which disks contain the evidence and which do not. Of course, in the unlikely event that the suspect has labeled the file "Children I Have Known and Loved," the task will be easy. In other cases, however, the officer or consultant will need to review all of the disks to determine which of them contain relevant evidence. It is recommended that the magistrate authorize this process in advance, and so you should ask for authority to do this in the warrant and justify the request in the affidavit.

Since the Fourth Amendment requires the officer to specify with particularity the documents (or disks) that contain evidence so that the magistrate can limit, in advance, the documents that will be examined and seized by the officers executing the warrant, this area will undoubtedly be fruitful for appellate challenge. Regularly check local legal counsel for new limitations on search and seizure of computer memory banks. *See also* Gerald F. Uehlmen and David C. Tunick, "Computer Searches and Seizures," in *Search and Seizure Law Reports*, Vol.10, No.9 (October 1983).

- are very concerned with the security of their collections of photographs, child pornography, erotica, and other illicit materials or information about specific child victims or sexual activity with children. Accordingly, they commonly rent safe deposit boxes or storage facilities outside of their immediate residence.
- keep the names, addresses, phone numbers, or other identifying information of the children with whom they have been sexually involved. This information may be maintained in a list, a phone book, an address book, on accumulated scraps of paper, or in a computer memory disk.
- often keep a diary containing records of their sexual activities with children. These diaries may be kept in a formal diary book, a notebook, an audiocassette, on accumulated scraps of paper, or in a computer memory disk.
- commonly use drugs or alcohol as a means of seduction, to reduce the child's inhibitions, or to heighten sexual arousal.

A few last thoughts are in order. In the event that you are unable to obtain an expertise search warrant to increase the scope of a search based on behavioral characteristics of preferential child molesters generally—or in the event that the case involves another type of child sexual offender entirely—use the research concerning the behavioral characteristics of child molesters to expand the scope of the investigation.

Consider that the suspect may have molested other children and begin trying to identify other child victims who may give you more insight into the suspect's modus operandi. Consider developing evidence from other sources that the suspect uses child pornography or takes pictures of children in sexually suggestive or sexually explicit poses. This informa-

tion may provide probable cause for issuance of a warrant to look for these items. The more the investigator knows about the crime and the criminal, the more avenues are open to exploration for evidence of these most difficult of cases.

Remember to consider the application of traditional probable cause requirements for the issuance of a traditional search warrant. If the investigation has produced sufficient probable cause to justify the issuance of a traditional search warrant, it may not be necessary to pursue the particulars of an expertise warrant.

Also, do not forget the uses of a consent search. All of the traditional pros and cons of attempting to obtain a consent search apply to the search of premises controlled by a preferential child molester.

When conducting a search, it may be advisable to photograph the search. This visually preserves the site of the search, the location of items discovered, and demonstrates what was and was not "in plain view." One authority particularly recommends photographing any display of frequently used telephone numbers posted by a phone, as the suspect may have the telephone numbers of child victims posted. Another authority recommends that officers conducting a search videotape their search of the premises (without sound). It may also be vital to keep accurate records concerning where the items were found and their chain of custody.

It may be helpful to attach examples of the kinds of evidence the investigation has so far uncovered. This may be of some assistance to the magistrate in evaluating probable cause. This is particularly true in cases in which the affidavit alleges that a child is pictured in sexually explicit or suggestive poses. **In the event that the officer uses attachments, however, check with local legal counsel concerning requirements that the attachments be incorporated into the affidavit or warrant by reference.** Also, in the event that photographs of children

engaged in sexually suggestive or sexually explicit activity will be attached (and incorporated), **explore the option of sealing those materials.** Since applications for search warrants become public record, sealing the photographs may avoid unduly embarrassing child victims.

Finally, consider obtaining a warrant (whether it is based on traditional means of establishing probable cause or it is an expertise warrant) even when the case is a strong one. **Remember that in order for the judge to pronounce a reasonable sentence, the judge must learn the full extent of the offender's conduct.**

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Appendix 1

SEXUAL VICTIMIZATION OF CHILDREN

I *Sexually Abused Children*	II *Sexually Exploited Children*	III *Missing Children*
A. Victims 1. Extent and effect (a) girls/boys 2. Indicators 3. Investigative difficulties **B. Victim/Offender** 1. Relationship (a) stranger (b) relative (c) acquaintance 2. Violence 3. Seduction process **C. Offenders** 1. Situational (a) regressed (b) morally indiscriminate (c) sexually indiscriminate (d) inadequate 2. Preferential (pedophile) (a) seduction (b) introvert (c) sadistic	**A. Pornography** 1. Commercial/homemade 2. Technical/simulated 3. Child erotica 4. Collection (a) fantasy (b) validation (c) souvenir **B. Sex Rings** 1. Ongoing access 2. Offender-victim bond 3. Types (a) solo (b) transition (c) syndicated **C. Prostitution** 1. Runaways 2. Gender and age 3. Life span 4. Customers (a) situational (b) preferential	**A. Runaways (homeless)** 1. Thrown away/lured away 2. From abuse (sexual?) 3. To exploitation (sexual?) **B. Lost/Injured** **C. Parental Abduction** 1. Mother/father(?) 2. Good/bad parent (?) 3. UFAP **D. Abduction** 1. Emotionally disturbed 2. Profit 3. Ransom 4. Sexual (a) keep (b) return (c) discard (d) kill 5. Child killer (a) organized (b) disorganized (c) parent

A child victimization case may be categorized by the juvenile justice system in any of the three ways described above. Runaways may enter the social service system in any of the three categories. Table by Kenneth V. Lanning, Supervisory Special Agent, Behavioral Science Unit, Federal Bureau of Investigation.

Appendix 2

Situational Child Molester

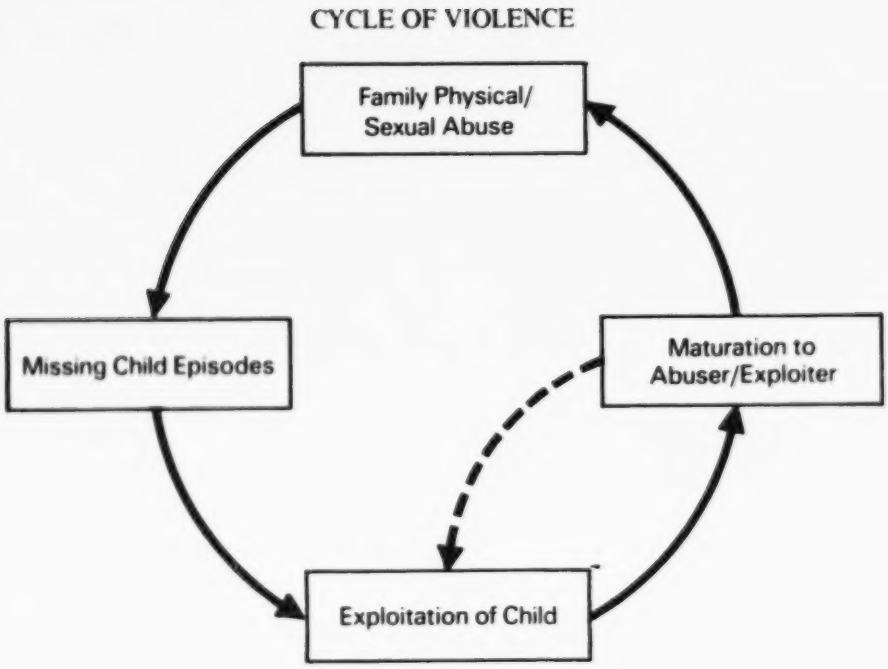
	Regressed	*Morally Indiscriminate*	*Sexually Indiscriminate*	*Inadequate*
Basic Characteristics	Poor coping skills	User of people	Sexual experimentation	Social misfit
Motivation	Substitution	Why not?	Boredom	Insecurity and curiosity
Victim Criteria	Availability	Vulnerability and opportunity	New and different	Non-threatening
Method of Operation	Coercion	Lure, force, or manipulation	Involve in existing activity	Exploits size, advantage
Pornography Collection	Possible	Sadomasochistic; detective magazines	Highly likely; varied nature	Likely

Preferential Child Molester

	Seduction	*Introverted*	*Sadistic*
Common Characteristics	1. Sexual preference for children 2. Collects child pornography or erotica		
Motivation	Identification	Fear of communication	Need to inflict pain
Victim Criteria	Age and gender preferences	Strangers or very young	Age and gender preferences
Method of Operation	Seduction process	Non-verbal sexual contact	Lure or force

Tables taken from Kenneth V. Lanning, *Child Molesters: A Behavioral Analysis* (National Center for Missing and Exploited Children, 1986).

Appendix 3


CYCLE OF VIOLENCE
Family Physical/
Sexual Abuse
Missing Child Episodes
Maturation to
Abuser/Exploiter
Exploitation of Child

Appendix 4

CONFIDENTIAL

A Model Proviso

Before sexually exploited child unit member(s) _____, _____, _____ personally appeared the youth _____, who stated that he/she is _____ years old, with a date of birth of _____, residing at _____. The date of this interview is _____ and the beginning of this interview is _____ a.m./p.m. Other witnesses present were _____, _____, and _____.

The following Proviso is mandated for all children being interviewed by the sexually exploited child unit.

PROVISO

IN NO CASE WILL INFORMATION RECEIVED FROM A YOUTH CLIENT BE USED FOR THE PURPOSE OF PROSECUTING SAID YOUTH CLIENT.

I have read the above statement (Proviso) or had it read to me, and I am willing to make a statement and/or answer questions. I have also read or have had read to me my Constitutional rights, as printed below. I do not want a lawyer at this time. *I understand and know what I am doing.* No promises or threats have been made to me, and no pressure or coercion of any kind has been used against me.

Youth: _____ Date: _____

Law-enforcement Officer: _____ Date: _____

Social Work Investigator: _____ Date: _____

Witness/Parent: _____ Date: _____

Your Constitutional Rights

I have been fully advised and understand that:

1. I have the right to remain silent.
2. Anything I say can be used against me in court.
3. I have the right to talk to a lawyer before any questioning or making any statements, and to have the lawyer present with me during questioning.
4. If I cannot afford a lawyer, one will be appointed for me before any questioning, if I wish.
5. If I decide to answer questions now without a lawyer present, I will still have the right to stop answering at any time. I also have the right to stop answering at any time until I speak with a lawyer.

This model Proviso was adapted from one used by the Exploited and Missing Child Unit (EMCU) of Louisville/Jefferson County, Kentucky. The EMCU does *not* accept referrals of familial child abuse or neglect. The focus of the unit is the commercial involvement of school-age children in criminal activity, normally extra-familial. Commercial interests are understood to mean and include sale, trade, barter, or exchange of money, services, property of any kind, and conditions or situations arranged for the benefit of any party.

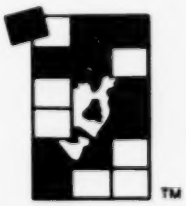
The National Center for Missing and Exploited Children

The National Center for Missing and Exploited Children serves as a clearinghouse of information on missing or exploited children; provides technical assistance to citizens and law-enforcement agencies; offers training programs to schools and law-enforcement; distributes photos and descriptions of missing children nationwide; coordinates a Speakers Bureau; and provides information and advice on effective state legislation to ensure the safety and protection of children.

A toll-free telephone line is open for those who have information that could lead to the location and recovery of a missing child: **1-800-843-5678**. (Washington, D.C., residents will call a local number: **634-9836**.) The TDD hotline (for the deaf) is **1-800-826-7653**. The 15 toll-free hotlines cover Canada as well as the United States.

A number of publications, listed below, are available by writing the Publications Department of the National Center for Missing and Exploited Children.

- ☐ *Parental Kidnapping*—a handbook for parents
- ☐ *Selected State Legislation*—state laws to protect children
- ☐ *Summary of Selected State Legislation*—a summary of the above
- ☐ *Investigator's Guide to Missing Child Cases*—a handbook for law-enforcement officers locating missing children
- ☐ *Child Molesters: A Behavioral Analysis*—a handbook for law-enforcement officers investigating cases of child sexual exploitation and abuse
- ☐ *Child Protection Priorities in State Legislation*—seven legislative priorities to prevent child victimization
- ☐ *Youth at Risk*—understanding runaway and exploited youth
- ☐ *Child Protection*—safety and precaution tips
- ☐ *Just in Case . . . Your Child Is Missing*—preparation and action for parents
- ☐ *Just in Case . . . Your Child Is Sexually Abused or Exploited*—guidelines for parents
- ☐ *Just in Case . . . Your Child Is a Runaway*—includes "missing poster" format
- ☐ *Just in Case . . . You Need a Babysitter*—brochure for parents
- ☐ *Just in Case . . . You Are Considering Family Separation*—protecting against parental kidnapping
- ☐ *Just in Case . . . You Are Dealing with Grief Following the Loss of a Child*
- ☐ *For Camp Counselors*—detecting child sexual exploitation
- ☐ Support services in your state
- ☐ Informational brochure



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